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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,965	11/13/2003	Junichi Ogikubo	450100-04811	9424

7590 05/02/2007  
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EXAMINER
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DURNFORD-GESZVAIN, DILLON

ART UNIT	PAPER NUMBER
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2622

MAIL DATE	DELIVERY MODE
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05/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/712,965

Applicant(s)

OGIKUBO, JUNICHI

Examiner

Dillon Durnford-Geszvain

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. Figures 4-6 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims **1, 2, 4, 5, 7-9, 11, 12** are **14** are rejected under 35 U.S.C. 102(e) as being anticipated by US 2003/0146981 (Bean et al.).

As to claim 1, Bean et al. teaches an imaging apparatus comprising: imaging device 136 (see Fig. 3) for reading a signal captured out of an image pickup device so as to generate an image signal based on captured image; signal processor 134 for generating image data based on said image signal; controller 134 for controlling operation of at least one of said imaging device and said signal processor to set a variable frame rate of said image data to a set frame rate ([0020]), and generating associated information for indicating at least said set frame rate; and transmitter 174 for combining said associated information with said image data to transmit the combined ones ([0023]).

As to claim 2, see the rejection of claim 1 and note that Bean et al. further teaches the imaging apparatus according to claim 1, wherein said controller 134 allows for setting the variable frame rate of said image data by means of altering a frequency of reading the signal captured out of said image pickup device ([0021]).

As to claim 4, see the rejection of claim 1 and note that Bean et al. further teaches the imaging apparatus according to claim 1, wherein said controller 134 allows for setting the variable frame rate of said image data by means of altering a frequency of reading the signal captured out of said image pickup device and controlling said signal processor to add said image data on a frame basis (see Fig. 3 and note that whole frames are added to the output at the desired frame rate).

As to claim 5, see the rejection of claim 1 and note that Bean et al. further teaches the imaging apparatus according to claim 1, wherein said controller allows for adding a sub-frame number to each of the frames of said set frame rate included within one frame period of reference frame rate so as to include said sub-frame number in said associated information ([0023] and note that when the video is played at constant speed S it plays at different frame rates and therefore there must be said associated data associated with the image data).

As to claim 7, see the rejection of claim 1 and note that Bean et al. further teaches the imaging apparatus according to claim 1, further comprising a signal recording apparatus 142, wherein said transmitter transmits a signal combining said associated information with said image data to said signal recording apparatus recording the signal thus combined on recording medium ([0027], the last 7 lines).

Claims 8, 9, 11, 12 and 14 are method claims that correspond to the apparatus claims 1, 2, 4, 5 and 7 respectively and are therefore rejected on the same grounds but drawn to a method.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims **3** and **10** are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2003/0146981 (Bean et al.) in view of US 7,047,305 (Brooks et al.).

As to claim **3**, see the rejection of claim **1** and note that what Bean et al. does not teach is that the frame rate is changed through frame-skipping. However, Brooks et al. teaches a video apparatus for changing the frame rate of an output video by frame-skipping (Column 7 lines 51-67). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used frame-skipping to vary the frame rate of Bean et al. using the method of Brooks et al. as this would allow for a preview image to be shown at a higher frame rate than that used to store images allowing memory space to be conserved while still allowing for accurate preview information to be obtained.

Claim **10** is a method claim that corresponds to the apparatus claim **3** and therefore is rejected on the same grounds but drawn to a method.

6. Claims **6** and **13** are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2003/0146981 (Bean et al.) in view of US 2003/0011689 (Shoji).

As to claim **6**, see the rejection of claim **1** and note that Bean et al. does not teach capturing audio data. However, Shoji teaches capturing audio data at one of three qualities, low, normal or high quality ([0038]). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have

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recorded sound to accompany the video captured by the device of Bean et al. and to have captured the sound at a quality commensurate with the frame rate as this would accomplish the stated goal of Bean et al. of conserving the memory space when not much is happening.

Claim 13 is a method claim that corresponds to the apparatus claim 6 and therefore is rejected on the same grounds but drawn to a method.

### ***Conclusion***

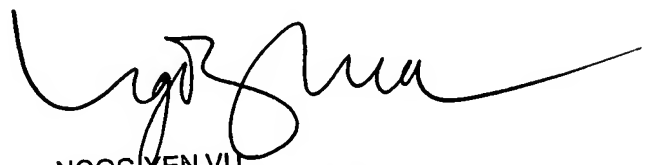
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dillon Durnford-Geszvain whose telephone number is (571) 272-2829. The examiner can normally be reached on Monday through Friday 8 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ngoc-Yen Vu can be reached on (571) 272-7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Dillon Durnford-Geszvain

4/29/2007



NGOC YEN VU  
SUPERVISORY PATENT EXAMINER